2013 IL App (2d) 120722-U
No. 2-12-0722
Order filed September 30, 2013

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF LAWRENCE J. SCHUTTE, Petitioner-Appellant, and MARY H. SCHUTTE, Respondent-Appellee.	)))))))))))	Appeal from the Circuit Court of Kane County. No. 98-D-1088 Honorable M. Katherine Moran, Judge, Presiding.

JUSTICE McLAREN delivered the judgment of the court.
Presiding Justice Burke and Justice Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court did not abuse its discretion by denying petitioner's petition to terminate maintenance based on his age, health and his desire to retire because although petitioner was 67 years old, he had not yet retired, his income had increased, and there was no evidence that his health prevented him from working; (2) the trial court did not abuse its discretion by ordering petitioner to continue paying maintenance to respondent after the trial court considered all the relevant factors pursuant to the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/504(a), 510(a-5) (West 2010)); (3) petitioner failed to establish that the trial court abused its discretion by failing to make the reduction in maintenance retroactive; and (4) the appellate court had no jurisdiction to review certain parts of the judgment that petitioner did not specify in his notice of appeal.

¶ 2 Petitioner, Lawrence J. Schutte, appeals from orders of the trial court denying his petition to terminate maintenance, granting respondent's, Mary H. Shutte's, petition for review and continuation of maintenance, granting Mary's motion to compel payment of child's loan, and finding Lawrence guilty of indirect civil contempt. On appeal, Lawrence argues that the trial court erred by: (1) denying his petition to terminate maintenance in light of Lawrence's age and health, and relevant financial circumstances of the parties; (2) ordering maintenance to continue to be paid to Mary in the amount of $2,000 a month which was in excess of Mary's stated needs and her inflated budget; (3) failing to make the reduction in maintenance retroactive by ordering Lawrence to pay maintenance at a reduced amount of $2,000 per month effective February 2012 when his petition to terminate maintenance was filed in March 2010 and Mary's petition was filed in April 2010; (4) interpreting the parties' March 30, 2007, agreed order as requiring Lawrence to pay $1,500 to Mary; and (5) holding Lawrence in indirect civil contempt of court. We affirm in part and dismiss in part.

¶ 3 I. BACKGROUND

¶ 4 The following facts are taken from the record including the parties' agreed statement of facts. The parties were married in August 1968. In January 2000, after 31 years, a final judgment dissolving the parties' marriage and incorporating a marital settlement agreement was entered by the trial court. The parties' original marital settlement agreement provided that Lawrence would pay Mary $1,350 per month for maintenance subject to review upon Mary reaching the age of 58 in November 2005 and $1,450 for child support for the parties' two minor children. On March 30, 2007, an agreed order was entered that provided that, beginning April 7, 2007, Lawrence would pay Mary $2,300 per month for maintenance for thirty-six months, at which time Mary's right to maintenance would be subject to review by either party filing a petition.

¶ 5 On March 23, 2010, Lawrence filed a "Petition to Terminate Maintenance" because he was "seeking to retire." On April 7, 2010, Mary filed three pleadings: (1) a "Petition for Review and continuation of Maintenance"; (2) a "Motion to Compel Payment of Child's Loan" alleging that Lawrence failed to repay a loan to their son, Brian, pursuant to the parties' marital settlement agreement; and (3) a "Petition for Rule to Show Cause" alleging that Lawrence failed to pay college expenses of their son, Brian, for the summer months of 2007.

¶ 6 A hearing on the above pleadings was conducted over several days beginning October 3, 2011, and concluding November 17, 2011. The record contains the parties' "Agreed Statement of Facts," pursuant to Supreme Court Rule 323(d) (eff. Dec. 13, 2005), regarding the proceedings during the hearing.

¶ 7 Mary testified as follows. During the marriage, the parties had three children. At the time of the divorce Mary had been out of the workforce for about 20 years. In 1995, the parties agreed that Mary should home school the children. Mary continued home schooling the children until 2004. Home schooling took six hours a day, five days a week. In 2004, Mary was 56 and one-half years old and was seeking full-time employment. However, it was difficult for Mary to find a suitable job because of her age and the fact that she had a 35 year old college degree that had not been used for over 30 years. Mary now works between 30 and 35 hours a week at Aurora University and Fox Valley College, and by providing private swimming lessons. At the time of the divorce, her gross income was approximately $36,000. Her current gross income was approximately $50,000. Her monthly net income included $802 from the rental of a duplex home. Mary testified regarding the expenses related to repairs and expenses of the rental duplex. Mary did not believe that her gross income would increase much more than $50,000. Mary's assets include the marital home, the rental

duplex, approximately $27,500 in retirement funds, and a 50 % share in Tama Airways, a privately held corporation. Tama Airways had accumulated retained earnings of approximately $180,000 but had never distributed any of its earnings. The other 50 % shareholder of Tama Airways was Mary's sister. On cross-examination, Mary testified that she never asked her sister to make distributions and on redirect Mary testified that her sister refused to make any distributions.

¶ 8 Mary's monthly expenses as set forth in her comprehensive financial statement that was attached to the parties' agreed statement of facts were $4,880.00. Mary testified that her monthly expenses includes a $750 payment for a home equity loan. The money was borrowed primarily for attorney fees for litigation with Lawrence, including the 2007 maintenance dispute, for home repairs, for rental duplex repairs and for payment of real estate taxes. Although the minimum monthly payment was only $59, Mary was paying $750 each month because the $30,000 loan would not be paid off by the balloon date of June 17, 2015, without Mary making substantial payments. Mary's monthly food expense was $600, which included some food for the parties' son, Brian, who lived with Mary. Her monthly expenses also included $180 for replacement and repair of her "very old" furniture; $200 to replace her 1997 Plymouth Voyager that has over 100,000 miles; $138 for additional life insurance with a death benefit of $355,000; $125 for clothes; $100 for grooming; $246 for two timeshares that Mary was awarded pursuant to the parties marital settlement agreement; and $200 for vacations.

¶ 9 The parties' marital settlement agreement provided that the parties were responsible for repaying a loan to their children, Brian and Lauren. Mary testified that she repaid the loan to Lauren and that she used the money she received from Lawrence as maintenance to make those payments. Lawrence has not made any payments to Brian. Mary had other expenses that were not included in

her monthly expenses, such as loans to Lauren beginning in 2009; health insurance payments for the parties' children of approximately $279; car insurance payment for Brian of approximately $42; and life insurance premiums for the children of approximately $43. Mary also purchased Lauren a scooter.

¶ 10 Lawrence testified that, at the time of the parties' dissolution in 2000, his income was approximately $85,000; in 2007 it was approximately $95,000; and it at the time of the hearing was $105,000. In 2010 he was concerned that he would lose his job and he planned to retire in April 2010. Lawrence testified that he has not retired and is still working. Lawrence would like to retire as soon as possible. Lawrence testified that, despite his desire to retire, he had instructed the social security administration not to pay him benefits "at this time." A social security letter indicated that Lawrence had instructed the administration to "reinstate" his benefits at age 70. Lawrence denied instructing the administration to suspend benefits until age 70 and testified that he did not indicate an age that he would retire.

¶ 11 Lawrence testified that he lived in Texas with his wife, Elba, whom he married in 2000. His home has a value of $105,000 and has a mortgage of $43,000. He had in excess of $440,000 in his retirement accounts. Lawrence testified that his monthly expenses were approximately $5,480 as set forth in his comprehensive financial statement that was attached to the parties' agreed statement of facts. Lawrence also testified that $983 of the monthly expenses were joint expenses that he shared with his wife. In addition, his monthly expenses included over $1,360 for payments for care for his wife's mother, educational expenses to help him prepare for retirement, and legal fees for the present litigation. Lawrence's monthly expenses also included $335 for a replacement vehicle, but no monthly expense for an auto loan payment.

¶ 12 On January 23, 2012, the trial court issued its written opinion and order. Regarding maintenance, the trial court denied Lawrence's "Petition to Terminate Maintenance" and granted Mary's "Petition for Review and Continuation of Maintenance." Accordingly, the trial court ordered that Lawrence:

> "shall continue to pay [Mary] maintenance in the amount of $2,300 per month until February 1, 2012, at which time maintenance shall be reduced to $2,000 per month until February 1, 2014, at which time it will be subject to review."

Regarding Mary's "Rule to Show Cause," the trial court found Lawrence guilty of indirect civil contempt "in that he failed to pay the sum of $500 per month in June, July and August of 2007 in accordance with the Agreed Order dated March 30, 2007." Thus, the trial court ordered Lawrence to pay Mary $1,500. Further, the trial court ordered Lawrence to be confined to the Kane County Adult Correction Center, but stayed the sanction pending a hearing on the issue of purge. The trial court denied Mary's "Motion to Compel Payment of Child's Loan."

¶ 13 Lawrence filed a "Motion for Reconsideration" on February 21, 2012, which the trial court denied on June 4, 2012. Lawrence filed a notice of appeal on July 3, 2012.

¶ 14 II. ANALYSIS

¶ 15 Lawrence argues on appeal that the trial court erred by denying his petition to terminate maintenance in light of his age and health, and relevant financial circumstances of the parties. Lawrence notes that at the time of the hearing he was 67 years old and was seeking to retire due to his age and health; he had an ongoing infection in his left leg which had required hospitalization about seven months before the hearing.

¶ 16 A reviewing court will not disturb the trial court's decision regarding the termination of maintenance absent a clear abuse of discretion. *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009). A trial court clearly abuses its discretion when its ruling is arbitrary, fanciful, unreasonable or where no reasonable person would take the view adopted by the trial court. *Id*. Where, as here, the parties agreed to a general review of maintenance the trial court is required to consider the factors in sections 504(a) and 510(a-5) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/504(a), 510(a-5) (West 2012)) in determining whether to terminate maintenance. *Id.*

¶ 17 In this case, the trial court heard evidence regarding and considered, *inter alia*, any change in Lawrence's employment status, his age and his physical condition. See 750 ILCS 504(a)(6), 510(a)(1) (West 2010). Although Lawrence was 67 years old and testified that he had an ongoing medical condition, it is uncontroverted that he continued to work and that his earnings had increased from approximately $95,000 in 2007 to $105,000 in 2010. In contrast, Mary's earnings had increased from approximately $46,000 in 2007 to an estimated $50,500 in 2011. Thus, while we may agree with Lawrence that it "is reasonable for [Lawrence] to seek to retire at age 67," seeking to retire is not a change in employment status. See 750 ILCS 510(a)(1) (West 2010). The record reveals that Lawrence has not yet retired. Further, there was no evidence that his medical condition prevented him from working.

¶ 18 Lawrence also argues that he was seeking to retire but cannot while he is obligated to pay maintenance. A party's challenge to a trial court's factual findings regarding a maintenance determination will not reversed unless the findings are against the manifest weight of the evidence. *In re Marriage of Sturm*, 2012 IL App (4th) 110559, ¶ 3. Findings are against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the court's findings are

unreasonable, arbitrary, and not based on any of the evidence. *In re Marriage of Nord*, 402 Ill. App. 3d 288, 294 (2010). In this case, the trial court noted that Lawrence testified that he "hopes to retire" but has not "done so yet [and the] court cannot speculate as to when [he] will retire." The record indicates that, at the time of the hearing, when Lawrence was 67 years old, he testified that he would like to retire as soon as possible but that he is still working. Further, a letter to the Social Security Administration indicated that Lawrence had instructed the agency to reinstate his benefits at 70; three years after the hearing. The trial court sat as the trier of fact, hearing the witnesses and reviewing the direct presentation of the evidence, and it was in the best position to make credibility determinations and factual findings. See *In re Marriage of Matchen*, 372 Ill. App. 3d 937, 946 (2007). We cannot say that the trial court's finding was contrary to the manifest weight of the evidence.

¶ 19 Lawrence also argues that if he retires and discontinues paying maintenance he takes the risk that the trial court will not find a substantial change in circumstances and he will risk being held in contempt of court. Thus, Lawrence argues, his current maintenance obligation prevents him from retiring and he cannot in good faith change his circumstances. He contends that he sought to terminate maintenance at a time when maintenance is set for review because it allows him to retire and it is the responsible thing to do. Lawrence argues that he is being punished for doing the right thing in this case and for not just retiring and leaving Mary with no support. Lawrence cites *In re Marriage of Mohr*, 260 Ill. App. 3d 98 (1994), to support his argument.

¶ 20 In *Mohr*, the trial court ordered the respondent to pay the petitioner maintenance in the amount $750 each month. *Id*. at 100. On appeal, the respondent argued that maintenance should be $1,000 a month. The appellate court held that, based on the respondent's testimony regarding his

retirement in the near future, the trial court did not abuse its discretion. *Id*. at 107. Thus, in *Mohr*, the appellate court deferred to the trial court regarding credibility determinations and factual findings. In this case, the trial court essentially found that Lawrence's testimony that he would like to retire soon was speculative. We cannot say that this finding is against the manifest weight of the evidence. *Mohr* is distinguishable from the case at bar. Accordingly, we determine that the trial court did not abuse its discretion by denying Lawrence's petition to terminate maintenance.

¶ 21 Next, Lawrence argues that the trial court erred by ordering maintenance to continue to be paid to Mary in the amount of $2,000 per month which was in excess of her stated needs and greatly in excess of her inflated budget. Specifically, Lawrence argues that Mary's budgets were inflated, inaccurate and were constantly changing as she moved expenses around within her budgets. Thus, Lawrence argues Mary's budgets lacked credibility and the trial court should not have given them much weight.

¶ 22 Lawrence challenges a budget that Mary attached to Lawrence's motion to terminate maintenance in April 2010. Lawrence argues that the April 2010 budget is inaccurate because; it does not include all of Mary's earned monthly gross income in her April 2010 budget because the April 2010 budget indicated earned monthly income of $1,836 when she actually earned $2,000 a month; it contains two entries for car expenses; the real estate taxes for Mary's rental property is included twice; and car and grooming expenses are inflated. Lawrence also challenges numerous items in a budget Mary filed in June 2010 as part of a pretrial memorandum. However, nothing in the record indicates that the April 2010 or the June 2010 budgets were admitted into evidence or considered by the trial court. The trial court's opinion and order indicates that it considered only Mary's "Comprehensive Financial Statement" submitted in October 2011 (2011 financial statement).

Further, neither the April 2010 nor the June 2010 budget are attached to the parties' agreed statement of facts, only Mary's 2011 financial statement is attached therein. Mary's 2011 financial statement provides that her monthly salary was $2,000. Thus, we need not consider Lawrence's arguments regarding Mary's April 2010 and June 2010 budgets. We note that the trial court found that Mary's earned monthly income was approximately $2,000. Accordingly, Lawrence's argument is essentially misdirected and meritless.

¶ 23 Regarding Mary's 2011 statement, Lawrence challenges a $750 monthly payment for a home equity loan that was incurred after the parties' judgment of dissolution of marriage was entered. Lawrence also disputes the amount by arguing that the agreed statement of facts indicates that the actual monthly payment on the home equity loan was $59. Lawrence argues that by including the $750 monthly payment instead of the $59 amount, Mary asked the trial court to order Larry to subsidize her post decree debts that were unrelated to her lifestyle during the marriage. Lawrence argues that reasonable needs do not include increased expenses as a result of investments or financial transactions. Lawrence cites *In re Marriage of Fazioli*, 202 Ill. App. 3d 245 (1990) and *Faris v. Faris*, 142 Ill. App. 3d 987 (1986), to support his argument.

¶ 24 In *Fazioli*, the wife sought an increase in maintenance, arguing that a substantial change in circumstances had occurred due to an increase in her expenses. *Fazioli*, 202 Ill. App. 3d at 250. The appellate court held that the trial court did not abuse its discretion by denying the wife's petition to increase her maintenance. *Id*. at 251. The appellate court reasoned that the wife's expenses were for unnecessary improvements to her home and increased expenses in a failing business. *Id*. at 250. In *Faris*, the wife incurred two additional mortgages to make additions to her home and to invest in a business that failed. *Faris*, 142 Ill. App. 3d at 1000. This court held that the trial court did not

abuse its discretion by denying the wife's petition for additional maintenance. *Id*. at 1001. Thus, in *Fazioli* and *Faris*, the party seeking additional maintenance had unnecessary and unreasonable expenses.

¶ 25 In this case, in contrast to *Fazioli* and *Faris*, the record indicates that Mary's monthly home equity loan payment was a reasonable expense and that the trial court properly considered it a necessity. See 750 ILCS 5/504(a)(2) (West 2010) (one of the factors a court may consider when reviewing maintenance is the needs of the parties). The agreed statement of facts indicates that Mary testified that, although the minimum monthly payment for the home equity loan was $59, the $30,000 loan would not be paid by the balloon payment date without making substantial payments. Mary testified that she took out the home equity loan because she needed it to pay attorney fees incurred during a 2007 maintenance dispute with Lawrence, home repairs, rental duplex repairs and real estate taxes. Thus, this case is distinguishable from *Fazioli* or *Faris*, wherein the party seeking additional maintenance made unnecessary improvements or additions to her home or invested in failing businesses. See *Fazioli*, 202 Ill. App. 3d at 250; *Faris*, 142 Ill. App. 3d at 1000.

¶ 26 Lawrence also argues that the 2011 financial statement was incorrect because it did not include maintenance. In fact, in its opinion and order the trial court expressly stated that Mary's estimated gross monthly income from all sources did not include maintenance. Thus, the exclusion of maintenance in Mary's 2011 financial statement is irrelevant as a distinction without consequence.

¶ 27 Lawrence also argues that Mary's expenses are overstated by $90 for furniture replacement; $200 for food; $200 for car repair and/or replacement costs; $72 for tolls and car rentals; $25 for clothing; $65 for grooming; $138 for life insurance; and $100 for vacations. Mary argues that Lawrence's budget is overstated and that many of the expenses he claims are overstated are equal

to or less than his expenses. Regarding vacations, the record indicates that Mary pays for timeshares that were awarded to her at the time of the judgment of dissolution. Further, the trial court opinion and order indicates that it considered the parties' arguments regarding each parties' alleged overstated expenses. Considering the totality of the record and the court's judgment, Lawrence has failed to establish that the trial court abused its discretion based on Mary's alleged overstated expenses.

¶ 28 Lawrence also argues that Mary was not in need of maintenance because, after the divorce and through 2009, she repaid a loan on behalf of the parties' adult daughter, Lauren. Lawrence also notes that since the middle of 2009 Mary had been lending money to Lauren but Mary did not include that money in her 2011 financial statement, Mary was paying health insurance premiums for both Lauren and Brian, paid Brian's car insurance premiums and bought Lauren a scooter. The trial court's written order and opinion indicates that it considered these arguments. Lawrence has failed to establish that the trial court abused its discretion based on Mary's payments on behalf of the parties' children as we believe reasonable minds could disagree as to whether or not these were proper payments.

¶ 29 Lawrence cites *In re Marriage of Zeman*, 198 Ill. App. 3d 722 (1990), for the proposition that support for children beyond the age of majority is a voluntary undertaking. In *Zeman*, the wife argued that the trial court erred by failing to consider expenses incurred by her as legal guardian of the parties' disabled daughter's, daughter. *Id*. at 734. This court held that the trial court did not err based on the parties' marital settlement agreement which provided for support only for the parties' daughter and not for her children. *Id*. at 735. In contrast, in this case the trial court considered the

factors provided in the Act and not the terms of the parties' marital settlement agreement. Thus, *Zeman* is distinguishable from this case.

¶ 30 Lawrence also argues that the trial court failed to consider Mary's 50 % interest in Tama Airways as an available source of income. However, the trial court's written order and opinion reveals otherwise. The trial court stated that Mary:

> "is a 50% shareholder in Tama Airways, a corporation, with the other 50% owned by her sister. Though the corporation produced net income of $16,433 in 2010, this income was left in the corporation as part of its retained earning. This has been their practice, historically, and the corporation currently has $180,000 in retained earnings, a sum calculated over 50 years. [Mary's] interest is reflected in the above referenced estimates of her total assets."

Thus, the trial court considered Mary's interest in Tama Airways as a potential source of income and a current asset. We will allow the trial court's factual conclusions to stand unless they are against the manifest weight of the evidence. *In re Marriage of Eberhardt*, 387 Ill. App. 3d 226, 233 (2008). The record supports the trial court's finding rather than Lawrence's misstatements.

¶ 31 Next, Lawrence argues that $2,000 for maintenance is improper because it exceeds Mary's stated monthly need of $1,706. However, he ignores that the trial court considered all the relevant factors including: the tax consequences of maintenance payments (see 750 ILCS 5/510(a-5)(4) (West 2010)); the fact that the parties were married for over thirty years (see 750 ILCS 504(a)(7) (West 2012); that Mary had stayed out of the workforce for over 20 years to care for the parties' three children including home-schooling them (see 750 ILCS 504(a)(4) (West 2012)); and that Lawrence earned almost $55,000 more than Mary at the time of the hearing and that his salary had increased since the judgment of dissolution (see 750 ILCS 504(a)(3), 510(a-5)(7) (West 2012)). Accordingly,

the trial court's findings were not against the manifest weight of the evidence nor did the trial court abuse its discretion by ordering Lawrence to continue to pay maintenance to Mary in the amount of $2,000 each month.

¶ 32 Next, Lawrence argues that the trial court erred by failing to make the reduction in maintenance retroactive by ordering Lawrence to pay maintenance at a reduced amount of $2,000 per month effective February 2012 when his petition to terminate maintenance was filed in March 2010 and Mary's petition was filed in April 2010. Mary argues that the trial court did not abuse its discretion by failing to make the modification of maintenance retroactive. We agree with Mary.

¶ 33 A trial court's decision whether or not to order a modification to be retroactive to the date of the filing of the petition, or any time after, will not be disturbed absent an abuse of discretion. *Brandt v. Brandt*, 99 Ill. App. 3d 1089, 1108-09 (1981). In this case, the record discloses that the trial court considered the financial data submitted by the parties reflecting their financial assets, real estate, income, expenses and debts. There is no assertion by Lawrence that the trial court abused its discretion in any specific manner regarding the trial court's decision to order the modification effective in February 2012. Nor does Lawrence argue that the trial court failed to consider any relevant evidence in reaching its conclusion. Considering the scant argument presented, we cannot conclude that the trial court abused its discretion by ordering the modification of maintenance effective February 2012.

¶ 34 Lawrence cites *Leva*, 125 Ill. App. 3d 55 and *Green v. Green*, 21 Ill. App. 3d 396 (1974), to support his argument that the trial court abused its discretion by failing to make its modification of maintenance order retroactive. In *Leva*, the appellate court held that an order modifying child support would be retroactive five months because of the supporting spouse's "wilful failure to

comply with petitioner's discovery requests." *Leva*, 125 Ill. App. 3d at 58. In this case, Lawrence does not argue that Mary caused a delay by wilfully failing to comply with discovery. Thus, *Leva* is distinguishable from this case.

¶ 35 In *Green*, the trial court found that the paying party had proved changed conditions or circumstances sufficient to justify a modification of the original support order as to future payments. *Green*, 21 Ill. App. 3d at 400. The evidence showed a drastic reduction of income and assets. *Id*. at 398-99. Because the paying spouse proved changed conditions, the appellate court held that the modification order should have been made retroactive to the date of filing of the motion. *Id*. at 400-01. In this case, Lawrence does not argue, nor point to any evidence to support, changed circumstances or conditions. Accordingly, *Green* is distinguishable from this case.

¶ 36 Lawrence raises two additional arguments: the trial court erred by ordering him to pay $1,500 for the summer months of 2007 pursuant to the March 2007 Agreed Order; and the trial court erred by holding him in indirect civil contempt. Lawrence urges this court to reverse the trial court's order requiring him to pay Mary $1,500 and reverse the trial court's order finding him guilty of indirect civil contempt.

¶ 37 Before we can consider Lawrence's arguments concerning these orders, we must first determine whether we have jurisdiction to hear these claims. *People v. Smith*, 228 Ill. 2d 95, 103 (2008). In our review of the record, we found "a potential jurisdictional defect," namely the failure of Lawrence's notice of appeal to mention the trial court's order requiring him to pay Mary $1,500 and the trial court's order finding him guilty of indirect civil contempt.

¶ 38 Supreme Court Rule 303(b)(2) (eff. Sept.1, 2006) provides that a notice of appeal "shall specify the judgment or part thereof or other orders appealed from and the relief sought from the

reviewing court." The filing of a notice of appeal is "the jurisdictional step which initiates appellate review ." (Internal quotation marks omitted.) *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176 (2011). "Unless there is a properly filed notice of appeal, the appellate court lacks jurisdiction over the matter and is obligated to dismiss the appeal." *Id*. at 176. "A notice of appeal confers jurisdiction on a court of review to consider only the judgment or parts of judgments specified in the notice of appeal." *Id*. When a party files a notice of appeal from a specified judgment, this court acquires no jurisdiction to review other judgments or parts of judgments that are not specified in or inferred from that notice of appeal. *Fitch v. McDermott, Will and Emery, LLP*, 401 Ill. App. 3d 1006, 1014 (2010). A notice of appeal is to be liberally construed and " 'will confer jurisdiction on an appellate court if the notice, when considered as a whole, fairly and adequately sets out the judgment complained of and the relief sought so that the successful party is advised of the nature of the appeal.' " *In re Marriage of O'Brien*, 2011 IL 109039, ¶ 22 (quoting *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427, 433-34 (1979)).

¶ 39 In the case at bar, Lawrence's notice of appeal expressly states that he was appealing from the "June 4, 2012 Order denying [Lawrence's] Post Trial Motion for Reconsideration and the January 23, 2012 Order denying [Lawrence's] Motion to Terminate Maintenance and granting [Mary's] Petition for Review and Continuation of Maintenance." Lawrence's motion for reconsideration addressed only the trial court's order regarding maintenance. It did not address the Petition for Rule to show cause which was raised in a separate and distinct pleading. Even construing the notice of appeal liberally and as a whole, we cannot say that it fairly and adequately set out the trial court's order requiring Lawrence to pay Mary $1,500 and the trial court's order finding him guilty of indirect civil contempt. See *Fitch*, 401 Ill. App. 3d at 1015. Further, we

recognize that these two issues were fully briefed by Lawrence and that Mary has not alleged prejudice. However, Lawrence's failure to file a proper notice of appeal regarding these issues cannot be remedied by addressing the issues in his appellate brief. See *General Motors*, 242 Ill. 2d. at 178. In addition, the question of prejudice to the prevailing party is pertinent only if there is jurisdiction. See *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427, 436 (1979). Despite the lack of apparent prejudice, we do not have jurisdiction over the trial court's orders requiring Lawrence to pay Mary $1,500 and its finding him guilty of indirect civil contempt.

¶ 40 III. CONCLUSION

¶ 41 For the reasons stated, we affirm the judgment of the circuit court of Kane County regarding maintenance. Further, we dismiss for lack of jurisdiction the Lawrence's appeal of the trial court's order that he pay $1,500 and the trial court's order finding him in indirect civil contempt.

¶ 42 Affirmed in part and dismissed in part.